

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Rhoads

Art Unit: 2625

Patent 7,656,565, Issuing February 2, 2010

Conf. No.: 2476

Application No.: 10/678,584

Filed: October 3, 2003

Via Electronic Filing

For: EXPLOITING RANDOM MOTION
DURING SCANNING TO YIELD
IMPROVED IMAGE

Examiner: Lee

Date: January 20, 2010

APPLICATION FOR PATENT TERM ADJUSTMENT
(Request for Reconsideration of PTO's Patent Term Adjustment Determination)
(37 CFR 1.705(d))

Sir,

Applicant requests reconsideration of the Office's Patent Term Adjustment (PTA) Determination. In particular, applicant believes the 1139 day PTA listed on the PTO's Patent Term Adjustment page on PAIR is incorrect; the correct PTA is believed to be 1792 days.

Statement of Facts

The calculation of PTO Delay is believed to be in error; Applicant submits it is longer than the 1139 days indicated on the Office's PAIR Patent Term Adjustment page (attached).

In particular, Applicant believes both "14 Month to First Action" and "3 Year to Issuance" delays should have been credited in accordance with the decision of the Federal Circuit in *Wyeth v. Kappos*, Appeal 2009-1120, January 7, 2010.

The Office computed its delay as including 1218 days of 14 Month to First Action Delay, and 16 days of other delays. However, no 3 Year to Issuance delay appears to have been credited.

This application was filed on October 3, 2003, and is scheduled to issue on February 2, 2010.

Applicant submits that – properly computed – a 3 Year Delay period began on the third anniversary of the filing date (i.e., October 3, 2006), and extends until the issue date (i.e., February 2, 2010), or 1218 days. (Coincidentally, the 3 Year and 14 Month delays are 1218 days each.)

The 3 Year delay period overlaps the 14 Month to First Action delay by 549 days, and the 3 Year delay wholly overlaps the 16 days of other delays.

Applicant thus believes the correct PTA should be 1792 days, computed as follows:

1218 days	14 Month Delay
1218 days	3 Year Delay
-549 days	Overlap between 14 Month and 3 Year delays
<u>-95 days</u>	Applicant delay
1792 days	

There was no circumstance constituting a failure to engage in reasonable efforts to conclude processing or examination of the application – other than those already considered in the PTO's earlier determination of patent term adjustment.

Date: January 20, 2010

CUSTOMER NUMBER 23735

Respectfully submitted,

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10/678,584 EXPLOITING RANDOM MOTION DURING SCANNING TO YIELD IMPROVED IMAGE

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Patent Term Adjustment

Filing or 371(c) Date:	10-03-2003	USPTO Delay (PTO) Delay (days):	1234
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	95
Post-Issue Petitions (days):	+0	Total Patent Term Adjustment (days):	1139
USPTO Adjustment (days):	+0	Expiration Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
01-13-2010	PTA 36 Months		
02-02-2010	Patent Issue Date Used in PTA Calculation		
12-29-2009	Dispatch to FDC		
12-16-2009	Response to Reasons for Allowance		
12-22-2009	Application Is Considered Ready for Issue		
12-16-2009	Issue Fee Payment Verified		
12-16-2009	Issue Fee Payment Received		
09-23-2009	Mail Notice of Allowance	10	
06-24-2009	Notice of Allowance Data Verification Completed		
06-24-2009	Document Verification		
06-19-2009	Paralegal TD Accepted		
05-13-2009	Terminal Disclaimer Filed		
06-02-2009	Date Forwarded to Examiner		
05-13-2009	Response after Non-Final Action		50
05-13-2009	Request for Extension of Time - Granted		
12-24-2008	Mail Non-Final Rejection	6	
12-22-2008	Non-Final Rejection		
08-18-2008	Information Disclosure Statement considered		
10-15-2008	Paralegal TD Accepted		
08-18-2008	Terminal Disclaimer Filed		
08-18-2008	Reference capture on IDS		
08-18-2008	Information Disclosure Statement (IDS) Filed		
10-10-2008	Date Forwarded to Examiner		
08-18-2008	Response after Non-Final Action		45
08-18-2008	Request for Extension of Time - Granted		
08-18-2008	Information Disclosure Statement (IDS) Filed		
04-04-2008	Mail Non-Final Rejection	1218	
03-31-2008	Non-Final Rejection		
05-17-2004	Information Disclosure Statement considered		
08-03-2006	IFW TSS Processing by Tech Center Complete		
05-17-2004	Reference capture on IDS		
05-17-2004	Information Disclosure Statement (IDS) Filed		
05-17-2004	Information Disclosure Statement (IDS) Filed		
07-14-2006	Case Docketed to Examiner in GAU		
03-31-2004	Application Return from OIPE		
03-31-2004	Application Return TO OIPE		
03-31-2004	Application Return from OIPE		
03-31-2004	Application Is Now Complete		
03-08-2004	Additional Application Filing Fees		
03-08-2004	Small Entity Statement (37 CFR 1.27)		
03-08-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant		
12-31-2003	Notice Mailed--Application Incomplete--Filing Date Assigned		
12-31-2003	Pre-Exam Office Action Withdrawn		
12-30-2003	Application Return TO OIPE		
12-30-2003	Application Dispatched from OIPE		
12-30-2003	Application Is Now Complete		
12-17-2003	Cleared by OIPE CSR		
10-31-2003	IFW Scan & PACR Auto Security Review		
10-03-2003	Initial Exam Team nn		

If you need help:

- Call the Patent Electronic Business Center at (866) 217-9197 (toll free) or e-mail EBC@uspto.gov for specific questions about Patent Application Information Retrieval (PAIR).